



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2011

Ms. Jessica C. Eales
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2011-06064

Dear Ms. Eales:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 417317 (GC No. 18334).

The City of Houston (the "city") received a request for e-mails between city officials/employees and The Cordish Companies ("Cordish"), Bayou Place Limited Partnership ("Bayou Place"), and a named individual for a specified time period. You claim that the requested information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.104 of the Government Code excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The purpose of section 552.104 is to protect a governmental body's interests in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Moreover, section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. *Open Records Decision No. 541 at 4* (1990). Section 552.104 does not except information relating to competitive bidding situations once a contract has been awarded. *Open Records Decision Nos. 306* (1982), *184* (1978).

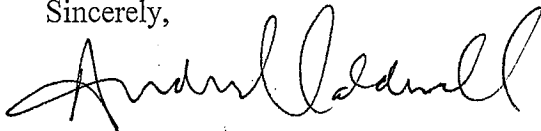
¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You state the city owns a facility that is leased to Bayou Place, a subsidiary of Cordish. You explain that a portion of the facility is a movie theater space and that Cordish and the city are currently in negotiations with a particular company to lease this space. You state the city has an interest in Cordish obtaining "the best competitive lease offer for the movie theater space because the [c]ity has an interest in a share of the total revenues generated under the lease of the facility." You further state that a final agreement with the particular company has not been reached and "other companies who have expressed an interest in leasing the space could use the requested information as a basis for determining negotiation strategies" for the lease of this space. Thus, you state the release of this information would impair the city's ability to obtain a competitive lease offer for the space. Based on these representations and our review, we find you have demonstrated release of the requested information would harm the city's interests in a competitive situation. Accordingly, the city may withhold the requested information under section 552.104 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

Ref: ID# 417317

Enc. Submitted documents

c: Requestor
(w/o enclosures)